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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,653	12/16/2003	Jefferson B. Burch	10030565-1	5350

7590 08/24/2006

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EXAMINER	
VU, MICHAEL T	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/736,653	BURCH ET AL.	
	Examiner	Art Unit	
	Michael Vu	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd (US 2002/0116491) in view of Hong (US 6,453,152).

Regarding **claim 1**, Boyd teaches a monitoring system comprising (Abstract): a central processing server (Fig. 1, Central Servers #10), wherein said central processing server performs **one** or more of: issues measurement requests for measuring conditions of a monitored area (Abstract, Fig. 1, Central Server #10s, request from Client Computer #12s); and processes data received in response to said measurement requests [0028-0029, 0034-0035]; a plurality of intermediate monitor sites communicatably connected to said central processing server for relaying said measurement requests *(Fig.1, Site to be Probed #14s), and (the server 10 receives test data from the probing computer 12, analyzes the data to determine the performance characteristics of*

the probed Web site 14, [0052]); and a plurality of smart probes in communication with said plurality of intermediate monitor sites for measuring said data in response to said measurement request [0052, 0073-0075], wherein each one of said plurality of smart probes

But Boyd does not clearly teach on determines a set of conditions for said each one prior to said measuring.

However, Hong teaches a method for measuring a base station's performance in a mobile communication system that predetermined data before testing (Figs. 4-5, C4, L10-64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyd, such that determines a set of conditions for said each one prior to said measuring, for testing, controlling, improving performance measurement of the base station over the wireless network.

Regarding **claim 2**, Boyd/Hong teach the monitoring system of claim 1 wherein said set of conditions comprises **one** or more of: availability of said each one to take said measurement request; capability of said each one for taking said measurement request; and a configuration of said each one needed to take said measurement request [0032, 0038-0039, 0057, 0081] of Boyd.

Regarding **claim 3**, Boyd/Hong teach the monitoring system of claim 1 wherein said central processing server further issues task requests for influencing a condition of said monitored area and wherein said plurality of smart probes perform tasks in

response to said task request relayed from said plurality of intermediate monitor sites (Fig. 1, [0052-0061]) of Boyd.

Regarding **claim 4**, Boyd/Hong teach the monitoring system of claim 3 wherein said set of conditions comprises **one** or more of: availability of said each one to perform said task request; capability of said each one for performing said task request; and a configuration of said each one needed to perform said task request [0032, 0038-0039, 0052-0061] of Boyd.

Regarding **claim 5**, Boyd/Hong teach the monitoring system of claim 1 wherein said plurality of smart probes: generates a random participation number for participating in **one** or more of said measurement request; compares said random participation number to a participation threshold; and determines participation in said measurement request according to said comparison [0031, 0054-0055, 0071, 0073] of Boyd.

Regarding **claim 6**, Boyd/Hong teach the monitoring system of claim 5 wherein said participation threshold is weighted according to **one** or more of: a number of participating ones of said plurality of smart probes; and an importance of said measurement request [0031, 0054-0055, 0071, 0073] of Boyd.

Regarding **claim 7**, Boyd/Hong teach the monitoring system of claim 1 further comprising: a transceiver disposed within said plurality of smart probes, wherein said transceiver enables communication between said plurality of smart probes (Abstract, as examiner interpreted that a transceiver equates to a communication module, Claim #11 reads on) of Boyd.

Regarding **claim 8**, Boyd/Hong teach the monitoring system of claim 7 wherein said plurality of smart probes exchange **one** or more of: select ones of said set of conditions; and a participation state of said plurality of smart probes [0031, 0054-0055, 0071, 0073] of Boyd.

Regarding **claim 9**, Boyd/Hong teach the monitoring system of claim 1 further comprising: a management computer disposed within said plurality of intermediate monitor sites (Fig. 1, Central Server Computer #10s) of Boyd.

Regarding **claim 10**, Boyd/Hong teach the monitoring system of claim 9 wherein said management computer performs **one** or more of: transmitting measurement requests to select ones of said plurality of smart probes responsive to **one** or more of: a capability of said select ones; and an availability of said select ones; receiving said data from said plurality of smart probes; and partially processing said data prior to communicating said partially processed data to said central processing server [0028-0041] of Boyd.

Regarding **claim 11**, Boyd/Hong teach the monitoring system of claim 1 wherein said plurality of smart probes are wireless (C1, L35-67 to C2, L1-33) of Hong.

Regarding **claim 12**, the combination of Boyd/Hong teach the monitoring system of claim 11 wherein said plurality of wireless smart probes are each located on a mobile platform (C1, L35-67 to C2, L1-33) of Hong.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyd (US 2002/0116491).

Regarding **claims 13 and 24**, Boyd teaches a method for monitoring a measurement system (Fig. 1) comprising: issuing an experiment from a central server to a plurality of intermediate monitoring stations (Fig. 1, Central Server #10s, Client Computer #12s, Probed Sites #14s, [0015, 0028], Experiment=Testing); transmitting said experiment to a plurality of smart probes (Fig.1); determining at said plurality of smart probes a set of tasks for completing said experiment (Test/Result [0015, 0022, 0029]); performing said set of tasks (Abstract); and transmitting data resulting from said performing step to said central server (Fig. 1, [0028-0035, 0052-0066]).

Regarding **claims 14 and 25**, Boyd teaches the method of claim 13 further comprising: determining at said plurality of smart probes an availability to perform said set of tasks; and determining at said plurality of smart probes a capability of performing each of said set of tasks [0015-00147, 0033-0035].

Regarding **claims 15 and 26**, Boyd teaches the method of claim 14 further comprising: generating a random participation number at said plurality of smart probes; comparing said random participation number to a participation threshold; and

determining a participation state of said plurality of smart probes responsive to said comparing [0041, 0065].

Regarding **claims 16 and 27**, Boyd teaches the method of claim 15 wherein said participation threshold is weighted according to one or more of: a number of said plurality of smart probes performing **one** or more of said set of tasks; and an importance attributable to said **one** or more of said set of tasks [0015-00147, 0033-0035].

Regarding **claims 17 and 28**, Boyd teaches the method of claim 13 wherein said experiment relates to conditions existing in select portions of said measurement system [0028-0041].

Regarding **claims 18 and 29**, Boyd teaches the method of claim 17 wherein said transmitting step comprises: ascertaining ones of said plurality of smart probes located within a predetermined distance from said select portions of said measurement system; and communicating said experiment to said ascertained ones of said plurality of smart probes (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 19 and 30**, Boyd teaches the method of claim 18 wherein said ascertaining is performed by said plurality of intermediate monitoring stations (Fig. 1, Client Computer #12).

Regarding **claims 20 and 31**, Boyd teaches the method of claim 13 further comprising: processing into said data, at said plurality of smart probes, measurements taken in said performing said set of tasks (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 21 and 32**, Boyd teaches the method of claim 13 further comprising: processing into said data, at said plurality of intermediate monitoring

stations, information received from said plurality of smart probes (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 22 and 33**, Boyd teaches the method of claim 13 further comprising: exchanging information related to said experiment between said plurality of smart probes (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 23 and 34**, Boyd teaches the method of claim 13 further comprising: communicating between said plurality of smart probes to divide performance of selected tasks of said set of tasks between selected smart probes of said plurality (Fig. 1, [0052-0066]).

Response to Arguments

6. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Vu whose telephone number is (571) 272-8131. The examiner can normally be reached on 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Vu

DUC NGUYEN
PRIMARY EXAMINER